

Message Text

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ORIGIN L-01

INFO OCT-01 SS-14 ISO-00 ARA-06 EB-03 INR-05 CIAE-00 NSC-05

NSCE-00 TRSE-00 OES-01 SP-02 H-01 SSO-00 INRE-00 /039 R

DRAFTED BY L:SMSCHWEBEL:CDJ

APPROVED BY ARA:JGRUNWALD

EB/IFD/OIA:RJSMITH

ARA/AND:JAALLITTO

----- 094678

O 301900Z SEP 76 ZFF4

FM SECSTATE WASHDC

TO AMEMBASSY QUITO NIACT IMMEDIATE

C O N F I D E N T I A L STATE 242904

LIMDIS

E.O. 11652: GDS

TAGS: ENRG, PFOR, EINV, EC

SUBJECT: GULF DISPUTE

REF: (A) QUITO 7060 (B) STATE 242293

1. AS EMBASSY WILL HAVE HEARD, GULF MADE THE DEPOSIT OF THE \$25 MILLION REQUIRED AT 10:16 A.M. TODAY IN THE NORMAL MANNER, WHICH SPECIFIES THE SHARE TO BE RETURNED TO GULF.

2. DEPT RENEWS CONGRATULATIONS TO AMBASSADOR AND COLLEAGUES FOR THEIR EXCEPTIONAL SERVICES IN SUCCESSFULLY AVOIDING FORFEITURE AND THE PROBLEMS FORFEITURE WOULD HAVE ENTAILED.

3. PER TELECONS BETWEEN AMBASSADOR AND GRUNWALD/SCHWEBEL, WE LOOK FORWARD TO RECEIPT OF STATEMENT BY AMBASSADOR OF COMMITMENTS ORALLY MADE TO HIM BY GOE, WHICH WE CAN
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PASS TO GULF. WHILE WE SEE SOME ADVANTAGE TO DESCRIBING

THESE COMMITMENTS IN THE LETTER TO THE GOE ACKNOWLEDGING ITS NOTE, WE WONDER WHETHER THE GOE MIGHT NOT FIND SUCH IRKSOME IN VIEW OF THE POSSIBILITY THAT AT SOME POINT ITS LETTER OF ASSURANCE AND OUR ACKNOWLEDGMENT MAY BECOME PUBLIC. ACCORDINGLY WE SUGGEST THAT YOU ALTERNATIVELY

PREPARE AN AIDE MEMOIRE RECORDING THE GOE'S ORAL COMMITMENTS TO YOU WHICH YOU CAN OFFICIALLY BUT INFORMALLY PASS TO THE GOE IN THE MANNER YOU JUDGE BEST. WE WOULD APPRECIATE HAVING A LOOK AT THIS PAPER BEFORE ITS TRANSMISSION TO THE GOE. THE COMMITMENTS THAT WE UNDERSTAND HAVE BEEN MADE TO YOU, ALL OF WHICH WOULD NOT NECESSARILY BE REFLECTED IN SUCH AN AIDE MEMOIRE, INCLUDE (A) THAT THE GOE WILL SIGN THE ASSURANCES; (B) THAT IT WILL CREDIT THE \$27 MILLION (C) THAT IT WILL AFFORD GULF THE 120 DAY TERMS AND (HOPEFULLY) (D) THAT IT WILL NOT IMPLEMENT PREVIOUSLY INDICATED POSSIBILITIES THAT IT WOULD MAKE CLAIMS AGAINST GULF FOR OIL NOT LIFTED UNDER DECREE 285 AND FOR FAILURE TO MAINTAIN WELLS. BY THE TIME YOUR AIDE MEMOIRE WOULD GO FORWARD, (A) SHOULD HAVE BEEN OBIATED BY SIGNATURE. AS TO (B), THE GOE, BY ACKNOWLEDGING IN ITS LETTER OF ASSURANCES THAT GULF HAS AVOIDED CADUCITY BY PAYMENT INFERENTIALLY ACKNOWLEDGES THE CREDIT, AND ACCORDINGLY ANY REFERENCE TO THE \$27 MILLION CREDIT IN AN AIDE MEMOIRE SHOULD TAKE ACCOUNT OF THAT.

4. WE SUGGEST THAT THE NOTE TO BE DELIVERED TO THE GOE UPON RECEIPT OF A SIGNED COPY OF THE GOE'S ASSURANCES READ AS FOLLOWS:

BEGIN TEXT.

THE EMBASSY OF THE USA HAS THE HONOR OF ACKNOWLEDGING RECEIPT OF THE NOTE OF THE GOE DATED SEPTEMBER 30, 1976, WHICH READS AS FOLLOWS....

ON BEHALF OF MY GOVERNMENT, I WISH TO EXPRESS APPRECIATION FOR THE DETERMINATIONS AND ASSURANCES WHICH THE NOTE OF THE GOE CONTAINS, AS WELL AS THE SUPPORTING
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ORAL EXCHANGES WHICH I HAVE BEEN PRIVILEGED TO HAVE WITH MINISTERS OF THE GOE. WITHOUT PREJUDICE TO ITS ESTABLISHED POSITION ON THE INTERNATIONAL LEGAL PRINCIPLES RESPECTING THE ACQUISITION AND VALUATION OF FOREIGN-OWNED ASSETS, MY GOVERNMENT ACCEPTS AND TRANSMITS THE DETERMINATIONS AND ASSURANCES OF THE GOE IN THE CONFIDENCE THAT EARLY CONSUMMATION OF PURCHASE OF GULF'S ASSETS IN ACCORDANCE WITH THEIR TERMS WILL LEAD

TO A SETTLEMENT MUTUALLY ACCEPTABLE TO ECUADOR AND TO GULF AND THUS RESOLVE A PROBLEM IN THE JOINT INTEREST OF THE GOVERNMENTS OF ECUADOR AND THE UNITED STATES.

I HAVE THE HONOR OF TRANSMITTING TO YOUR GOVERNMENT HERewith ASSURANCES BY THE GULF OIL COMPANY TO THE USG THAT GULF WILL PUNCTILIOUSLY HONOR ITS OBLIGATIONS TO PAY ALL SUMS THAT WILL BECOME DUE TO THE GOE, IN THE CONFIDENCE THAT THE OBLIGATIONS OF THE GOE PURSUANT TO THE DETERMINATIONS, ASSURANCES AND EXCHANGES OF THE GOE REFERRED TO ABOVE WILL BE IMPLEMENTED.

END OF TEXT.

5. AS TO THE ASSURANCES OF PAYMENT OF GULF WHICH WOULD ACCOMPANY THE FOREGOING NOTE, A TEXT OF WHICH HAS BEEN ADDRESSED TO YOU, WE INFORMED LUCAS THAT THE GOE IS SUGGESTING REVISIONS, NOTABLY AN INDICATION BY GULF THAT IT IS DROPPING THE SUIT VERSUS ARCO. LUCAS REACTED MOST NEGATIVELY, STATING THAT HE WOULD ADVISE GULF NOT TO ACCEPT SUCH A REFERENCE, ON THESE GROUNDS: (A) IT WAS AGREED BY GULF WITH VARGAS AND ROBALINO A WEEK AGO THAT THE SUIT AGAINST ARCO WOULD NOT BE AN ELEMENT OF THE ARRANGEMENTS TO AVOID CADUCITY. (B) THE OIL IN QUESTION WAS GULF/TEXACO OIL, TO NONE OF WHICH, TO THE GOE'S KNOWLEDGE, IT WAS ENTITLED, WHICH WAS SIMPLY LOADED AT GUNPOINT. GULF, TEXACO AND THE GOE ARE NOW NEGOTIATING TO CURE THIS CONVERSION OF THE COMPANIES' PROPERTY BY A SALE OF THE OIL TO THE GOE. PENDING SUCH A SALE, GULF HAS BEEN STIPULATING POSTPONEMENTS WITH ARCO. BUT IT WOULD BE UNWILLING TO DROP THE SUIT BECAUSE THAT WOULD UNDERCUT ITS EFFORTS TO RECOVER ITS POSITION BY A SALE. ON INQUIRY AS TO
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WHETHER THE SUIT COULD NOT BE WITHDRAWN WITHOUT PREJUDICE, LUCAS THOUGHT THAT RISKY. HE DID INDICATE, HOWEVER, THAT HE WOULD BE PREPARED TO ADVISE THAT GULF PROVIDE THE GOE IN WRITING WITH AN ASSURANCE THAT IT IS PREPARED TO STIPULATE FURTHER POSTPONEMENTS IN THE CONFIDENCE THAT A SALE OF THE LITIGATED OIL WILL SOON BE CONCLUDED. THIS WRITING WOULD NOT BE PART OF GULF'S LETTER OF ASSURANCES TO PAY ITS OBLIGATIONS; IT RELATES TO A DISTINCT MATTER.

6. WE RECOMMEND THAT YOU ADVISE THE GOE THAT GULF IS NOT PREPARED TO GIVE ASSURANCES THAT IT WILL WITHDRAW THE SUIT VERSUS ARCO BUT THAT WE BELIEVE IT WOULD BE PREPARED TO INFORM THE GOE OF ITS WILLINGNESS TO STIPULATE FURTHER POSTPONEMENTS OF THE SUIT IN THE CONFIDENCE

THAT A SALE OF THE OIL IN QUESTION TO THE GOE WILL
SHORTLY BE CONSUMMATED. ROBINSON

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